

## IN THE CLAIMS

35-48. (Cancelled)

49. (Currently amended) A method for playing and simultaneously recording an audio ~~CD~~ optical disk file, the method comprising:

receiving from a optical disk player device, a first audio data stream originating from an first audio CD-optical disk file;

incrementally ~~recording~~ storing the first audio data starting at a first point corresponding to a beginning of the first audio CD-optical disk file, wherein the first audio data is received and stored at a first rate that is higher than a playback rate prescribed for the first audio optical disk file; and

incrementally playing the stored first audio data during the ~~recording~~ storing of the first audio data stream;

~~stopping the recording of the first audio data at a second point within the audio CD file;~~

~~— incrementally recording the first audio data beginning at the second point within the audio CD file; and~~

~~— incrementally playing the first audio data starting at the first point corresponding to the beginning of the audio CD file while the first audio data is incrementally recorded beginning at the second point within the audio CD file.~~

50. (Cancelled)

51. (Cancelled)

52. (Currently Amended) A computer readable medium comprising instructions, which when executed perform a method for playing and simultaneously recording an audio optical disk file, the method comprisingef:

receiving from an optical disk player device, first audio data stream originating from starting at a first point corresponding to a beginning of an audio CD optical disk file;

incrementally ~~recording~~ storing the first audio data starting at a first point corresponding to a beginning of the first audio optical disk file, wherein the first audio data is received and stored at a first rate that is higher than a playback rate prescribed for the first audio optical disk file; and

incrementally playing the stored first audio data during the ~~recording~~ storing of the first audio data stream;

~~stopping the recording of the first audio data at a second point within the audio CD file~~;

~~incrementally recording the first audio data beginning at the second point within the audio CD file~~; and

~~incrementally playing the first audio data starting at the first point corresponding to the beginning of the audio CD file while the first audio data is incrementally recorded beginning at the second point within the audio CD file.~~

53-61. (Cancelled)

62. (New) The method of claim 49, wherein the first rate is greater than real-time.

63. (New) The method of claim 62, wherein the first audio data is incrementally played at real time during the storing of the first audio data.

64. (New) The method of claim 49, further comprising encoding the first audio data, wherein the first audio data is received, stored and encoded at a rate that is greater than real-time.

65. (New) The method of claim 64, wherein the first audio data is incrementally played at real time during the storing of the first audio data.

66. (New) The method of claim 49, further comprising:  
stopping the storing of the first audio data at a second point within the first audio ~~CD-optical disk~~ file;  
receiving from the optical disk ~~CD~~-player device, a second audio data stream originating from the first audio optical disk ~~CD~~-file; and  
incrementally playing the second audio data starting at the first point corresponding to the beginning of the first audio optical disk ~~CD~~-file, while the second audio data is incrementally stored beginning at the second point within the first audio optical disk ~~CD~~-file.

67. (New) The method of claim 66, wherein the first audio data is incrementally stored to a local storage device as a first electronic data file.

68. (New) The method of claim 67, wherein the second audio data is incrementally stored as part of the first electronic data file.

69. (New) The method of claim 49, wherein the audio optical disk ~~CD~~-file further comprises metadata The computer readable medium of claim 52,.

70. (New) The method of claim 69, wherein the audio optical disk file further comprises a compact disk (CD).

71. (New) The method of claim 49, wherein the first audio data incrementally stored in one of a plurality of digital encoding formats, the method further comprising:  
identifying within which one of the plurality of data encoding formats the first audio data stream of data is encoded;  
decoding blocks of the stored digitally encoded audio data; and  
incrementally playing the decoded blocks of the audio data.

72. (New) The computer readable medium of claim 52, wherein the first rate is greater than real-time.

73. (New) The computer readable medium of claim 72, wherein the first audio data is incrementally played at real time during the storing of the first audio data.

74. (New) The computer readable medium of claim 52, further comprising encoding the first audio data, wherein the first audio data is received, stored and encoded at a rate that is greater than real-time.

75. (New) The computer readable medium of claim 74, wherein the first audio data is incrementally played at real time during the storing of the first audio data.

76. (New) The computer readable medium of claim 52, further comprising:  
stopping the storing of the first audio data at a second point within the first audio optical disk CD-file;

receiving from the optical disk CD-player device, a second audio data stream originating from the first audio optical disk CD-file; and

incrementally playing the second audio data starting at the first point corresponding to the beginning of the first audio optical disk CD-file, while the second audio data is incrementally stored beginning at the second point within the first audio optical disk CD-file.

77. (New) The computer readable medium of claim 76, wherein the first audio data is incrementally stored to a local storage device as a first electronic data file.

78. (New) The computer readable medium of claim 76, wherein the second audio data is incrementally stored as part of the first electronic data file.

79. (New) The computer readable medium of claim 52, wherein the audio optical disk CD-file further comprises metadata.

80. (New) The computer readable medium of claim 52, wherein the first audio data is incrementally stored in one of a plurality of digital encoding formats, the instructions further operate to

identify within which one of the plurality of data encoding formats the first audio data stream of data is encoded;

decode blocks of the stored digitally encoded audio data; and  
incrementally play the decoded blocks of the audio data.

81. (New) An apparatus comprising:

a medium comprising a plurality of instructions, which when executed operate to receive from an CD-optical disk player device, first audio data stream

originating from a first audio optical disk CD-file,

incrementally store the first audio data starting at a first point corresponding to a beginning of the first audio optical disk CD-file, wherein the first audio data is received and stored at a first rate that is higher than a playback rate prescribed for the first audio optical disk CD-file, and

incrementally play the stored first audio data during the storing of the first audio data stream; and

a processor coupled to the medium to execute the plurality of instructions.

82. (New) The apparatus of claim 81, wherein the first audio data is incrementally stored to a local storage device as a first electronic data file.

83. (New) The apparatus of claim 82, wherein the first electronic data file further comprises metadata.

## **REMARKS**

In the Office Action dated November 21, 2003 claims 35-61 were rejected. Applicant has cancelled claims 35-48, claims 50-51, and claims 53-61 without prejudice, and Applicant has added new claims 62-83. Accordingly, claims 49, 52, and 62-83 are currently pending.

### **Claim Rejections Under 35 U.S.C. §103**

Claims 35-37, 39-44, and 46-60 were rejected as being unpatentable over Thomason et al. (US 6,018,612) in view of Barton et al. (US 6,233,389). For the purposes of prosecutorial expediency, Applicant has cancelled claims 35-48 without prejudice, thereby rendering the rejections to claims 35-37, 39-44, and 46-48 as moot. However, Applicant does not agree that claims 35-37, 39-44, and 46-48 are unpatentable over the prior art, and as such, specifically reserves the right to address the merits of claims 35-37, 39-44, and 46-48 over the prior art in the future should that be deemed necessary.

Applicant's amended claim 49 recites a method for playing and simultaneously recording an audio optical disk file, the method comprising:

- receiving from an optical disk player device, a first audio data stream originating from a first audio optical disk file;
- incrementally storing the first audio data starting at a first point corresponding to a beginning of the first audio optical disk file, wherein the first audio data is received and stored at a first rate that is higher than a playback rate prescribed for the first audio optical disk file; and
- incrementally playing the stored first audio data during the storing of the first audio data stream.

Applicant respectfully submits that at the very least, neither Thomason or Barton (whether alone or in combination), teach receiving and incrementally storing an audio

data stream from an audio optical disk file of an optical disk player device, at a rate that is higher than a playback rate prescribed for the **audio optical disk file** by the player device. This can be distinguished from prior art systems, in which audio optical disk files had to be completely recorded/stored before a user could commence playback of the stored data resulting in an undesirable delay.

With respect to claims 49-54, the above referenced Office Action states:

*...the combination provides for a network a source of audio and video, but, as applied fails to address and disclose recording an audio CD file, utilizing a CD for storage, disclose displaying information about the audio file being a song name and artist.*

Additionally, the Examiner took Official Notice that

*recording audio, and displaying information such as artist and song name are well known and further recording audio to a CD is well known, and therefore obvious to one skilled in the art to provide and display song and artist names associated with selections recording audio signals and to further utilize the CD to recording and reproduction operations in Thomason, as is conventional and well known to those skilled in the art.*

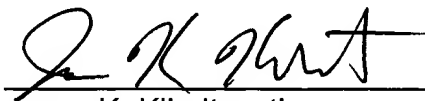
Although recording audio, displaying information such as artist and song name, and recording audio to an optical disk may be well known, Applicant respectfully submits that, given the teachings of Thomason and/or Barton, it would not be obvious to one of ordinary skill in the art to receive and incrementally store audio data from an audio optical disk file, wherein the audio data is received and stored at a rate that is higher than a playback rate prescribed for the first audio optical disk file. In fact, neither Thomason or Barton teach or otherwise suggest the use of an audio optical disk file, let alone the use of an audio optical disk file as a data source.

## Conclusion

In light of the above amendments and remarks, this application is now in condition for allowance. Early issuance of Notice of Allowance is respectfully requested. The Examiner is encouraged to telephone the undersigned if there are any remaining questions of patentability, and a telephone interview would be helpful in resolving these questions.

Respectfully submitted,  
SCHWABE, WILLIAMSON & WYATT, P.C.

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